

Title 1

GENERAL PROVISIONS*

* **Note to Title 1.** For administrative rules relevant to this title, look for a following "R" title of the same number.

Chapter 1.01

CODE ADOPTION

1.01.010 Adoption.

Pursuant to authority vested in it by Chapter 70.05 RCW, Titles 1, 2, 3, 5, 6, 8, 10, 12, 13, 14 and 15 of The Code of the King County Board of Health, dated 1988, as compiled, edited and indexed by the editorial staff of Book Publishing Company under the direction of the King County board of health, a codification of the general and permanent rules and regulations of the King County board of health, are adopted.

(R&R 40 (part), 12-15-88: R&R 38 §1, 9-20-88)

1.01.020 Title--Citation--Reference.

This code shall be known as "The Code of the King County Board of Health" and it shall be sufficient to refer to said code as "The Code of the King County Board of Health" in any prosecution for the violation of any provision thereof, in any enforcement proceeding or in any other proceeding in law or equity. It shall be sufficient to designate any rule or regulation adding to, amending, correcting or repealing all or any part or portion thereof as an addition to, amendment to, correction or repeal of "The Code of the King County Board of Health" and such reference shall apply to that numbered title, chapter, section or subsection as it appears in the code.

(R&R 40 (part), 12-15-88: R&R 38 §2, 9-20-88)

1.01.030 Purpose and policy.

It is expressly the purpose of this code to provide for and promote the health, safety and welfare of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this code. It is the specific intent of this code to place the obligation of complying with its requirements upon those parties regulated thereunder, and no provision of nor term used in this code is intended to impose any duty whatsoever upon King County or any of its officers or employees, for whom the implementation or enforcement of this code shall be discretionary and not mandatory. Nothing in this code is intended to be nor shall be construed to create or form the basis for any liability on the part of King County, on its officers, employees or agents, for any

injury or damage resulting from the failure of any person subject to this code to comply with this code, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this code on the part of King County by its officers, employees or agents.

(R&R 40 (part), 12-15-88: R&R 38 §3, 9-20-88)

1.01.040 Rules of construction.

The adoption of this code shall establish the general and permanent rules and regulations of the King County board of health in effect as of the effective date of this code, except that nothing herein shall be construed as repealing or changing the meaning of any such rules and regulations and, as a rule of construction, in case of any omissions or any inconsistency between any of the provisions of this code and the rules and regulations existing immediately preceding this enactment, the previously existing rules and regulations shall control.

(R&R 40 (part), 12-15-88: R&R 38 §4, 9-20-88)

1.01.050 Reference applies to all amendments.

Whenever a reference is made to this code as "The Code of the King County Board of Health" or to any portion thereof, or to any rule or regulation of the King County board of health, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made.

(R&R 40 (part), 12-15-88: R&R 38 §5, 9-20-88)

1.01.060 Title, chapter and section headings.

Title, chapter and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section hereof.

(R&R 40 (part), 12-15-88: R&R 38 §6, 9-20-88)

1.01.070 Effect of code on past regulations and obligations.

The adoption of this code shall not in any manner affect any prosecution for violation of rules or regulations, which violations were committed prior to the effective date hereof, nor shall it be construed as a waiver of any permit, fee or penalty at said effective date due and unpaid under any such rules and regulations relating to the collection of any such permit fees or penalties or the penal provisions applicable to any violations, and all rights and obligations existing under the rules and regulations in effect immediately prior to the effective date of this code shall continue in full force and effect.

(R&R 40 (part), 12-15-88: R&R 38 §7, 9-20-88)

1.01.080 Constitutionality.

If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code. The King County board of health hereby declares that it would have passed this code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared

invalid or unconstitutional, and if for any reason this code should be declared invalid or unconstitutional, then the preexisting rules and regulations shall be in full force and effect. (R&R 40 (part), 12-15-88: R&R 38 §8, 9-20-88)

Chapter 1.04 GENERAL PROVISIONS (RESERVED)

Chapter 1.08 UNIFORM ENFORCEMENT CODE

ARTICLE I. GENERALLY

1.08.010 Intent.

All violations of public health rules and regulations are determined to be detrimental to the public health, safety and welfare and are hereby declared to be public nuisances. All conditions which are determined by the director to be in violation of any public health rules and regulations shall be subject to the provisions of this chapter and shall be corrected by any reasonable and lawful means as provided in this chapter. (R&R 7 §103, 12-1-81)

1.08.020 Definitions.

As used in this chapter:

A. "Director" means the director of the department of public health or his/her duly authorized representative.

B. "Enforcement technical review committee" means the committee established by Section 109 of King County Ordinance No. 2909.

C. "Hearing examiner" means the county zoning and subdivision examiner, as created by Ordinance 263, Article 5, King County Code (KCC) Chapter 20.24, or his duly authorized representative.

D. "Nuisance" means unlawfully doing an act, or omitting to perform a duty, which act or omission either annoys, injures or endangers the comfort, repose, health or safety of others, offends decency, or unlawfully pollutes, interferes with, obstructs, or tends to obstruct, or render dangerous for passage, any lake or navigable river, bay, stream, canal, body of water or basin, or any public park, square, street or highway, or in any way renders other persons insecure in life, or in the use of property.

E. "Permit" means any form of certificate, approval, registration, license or other written permission given to any person to engage in any activity as required by law, ordinance or regulation.

F. "Person" includes any individual, organization, firm, public or private corporation,

association, political subdivision, government agency, municipality, industry, partnership and their agents or assigns, or any other entity whatsoever.

G. "Public nuisance" means a nuisance which affects the rights of an entire community or neighborhood, although the extent of the nuisance may be unequal.

H. "Public health rules and regulations" includes this chapter and any other existing or future ordinance or resolution of the county, rules and regulations of the board of health, or provisions of the Washington Administrative Code which regulate the public health, including but not limited to the following rules and regulations: board of health rules and regulations pertaining to foodservice establishments (Title 5 of this code), meat (Title 6 of this code), swimming and spa pools (Title 14 of this code), solid waste (Title 10 of this code) and on-site sewage disposal systems (Title 13 of this code), and rules and regulations promulgated by the director pursuant thereto.

(R&R 71 §1, 8-12-91; R&R 7 §101, 12-1-81)

1.08.030 Authority of director.

The director is authorized to utilize the procedures of this chapter in order to enforce violations of any public health rules and regulations.

(R&R 7 §102, 12-1-81)

1.08.040 Right of entry.

A. Whenever necessary to make an inspection to enforce or determine compliance with the provisions of any public health rules and regulations, or whenever the director or his/her duly authorized inspector has cause to believe that a violation of any public health rules and regulations has been or is being committed, the inspector may enter any building, structure, property or portion thereof at reasonable times to inspect the same.

B. If such building, structure, property or portion thereof is occupied, the inspector shall present identification credentials, state the reason for the inspection, and demand entry.

C. If such building, structure, property or portion thereof is unoccupied, the inspector shall first make a reasonable effort to locate the owner or other persons having charge or control of the building, structure, property or portion thereof and demand entry. If the inspector is unable to locate the owner or such other persons and he has reason to believe that conditions therewith create an immediate and irreparable health hazard, then he shall make entry.

D. It is unlawful for any owner or occupant or other person having charge, care or control of any building, structure, property or portion thereof to fail or neglect after proper demand to permit prompt entry thereon where the inspector has reason to believe that conditions therein create an immediate and irreparable health hazard.

E. Unless entry is consented to by the owner or person in control of any building, structure, property or portion thereof or conditions are believed to exist which create an immediate and irreparable health hazard, the inspector prior to entry shall obtain a search warrant as authorized by the laws of the state.

(R&R 7 §104, 12-1-81)

1.08.050 Misdemeanor penalty.

As an alternative to any other judicial or administrative remedy provided in this chapter or by law or other rules and regulations, any person who wilfully or knowingly violates any public

health rules and regulations, or rules and regulations adopted under them, or any order issued pursuant to this chapter, or by each act of commission or omission procures, aids or abets such violation, is guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed five hundred dollars (\$500.00) and/or imprisonment in the county jail for a term not to exceed ninety (90) days. Each day such violation continues shall be considered an additional offense. (R&R 7 §105, 12-1-81)

1.08.060 Civil penalty.

A. In addition to or as an alternative to any other judicial or administrative remedy provided in this chapter or by law or other rules and regulations, any person who violates any public health statute, rules and regulations, or rules and regulations adopted under them, or by each act of commission or omission procures, aids or abets such violation shall be subject to a civil penalty.

B. Any person engaged in the development, management, sale, rental or use of property solely for the purpose of residential occupancy by the person or his or her immediate family shall be deemed to be engaged in noncommercial ventures for purposes of this section. All other persons shall be deemed to be engaged in commercial ventures for purposes of this section.

C. Civil penalties for violations by persons engaged in commercial ventures shall be assessed at two hundred fifty dollars (\$250.00) per violation. Civil penalties for violations by persons engaged in noncommercial ventures shall be assessed at twenty-five dollars (\$25.00) per violation. Each and every day or portion thereof during which a violation is committed, continued, permitted or not corrected shall be deemed a violation.

D. Penalties for the second separate violation by the same person within any five (5) year period shall be double the rates identified in this section. Penalties for any separate violation beyond a second violation by the same person within any five (5) year period shall be triple the rates identified in this section. All civil penalties assessed will be enforced and collected in accordance with the lien, personal obligation and other procedures specified in this chapter. (R&R 7 amdt. §1, 6-9-82; R&R 7 §106, 12-1-81)

1.08.070 Abatement.

In addition to or as an alternative to any other judicial or administrative remedy provided in this chapter or by law or other rules and regulations, the director may order a public health rules and regulations violation to be abated. The director may order any person who creates or maintains a violation of any public health rules and regulations, or rules and regulations adopted under them, to commence corrective work and to complete the work within such time as the director determines reasonable under the circumstances. If the required corrective work is not commenced or completed within the time specified, the director will proceed to abate the violation and cause the work to be done. He will charge the costs thereof as a lien against the property and as both a joint and separate personal obligation of any person who is in violation. (R&R 7 §107, 12-1-81)

1.08.080 Other legal or equitable relief.

Notwithstanding the existence or use of any other remedy, the director may seek legal or equitable relief to enjoin any acts or practices or abate any conditions which constitute or will constitute a violation of any public health rules and regulations, or rules and regulations adopted

under them.
(R&R 7 §108, 12-1-81)

1.08.090 Reserved.

ARTICLE II. NOTICES AND ORDERS OF THE DIRECTOR

1.08.100 Initiation of enforcement action.

A. Whenever the director has reason to believe that a use or condition exists in violation of any public health rules and regulations, or rules and regulations adopted under them, he shall initiate enforcement action under Sections 1.08.050 or 1.08.80 and/or, at his option, shall commence an administrative notice and order proceeding under this chapter to cause the assessment of a civil penalty pursuant to Section 1.08.060, abatement pursuant to Section 1.08.070 or suspension and revocation of any permits issued pursuant to Article III of this chapter.

B. Pending commencement and completion of the notice and order procedure provided for in this article, the director may cause a stop-work order to be posted on the subject property or served on persons engaged in any work or activity in violation of any public health rules and regulations. The effect of such a stop-work order shall be to require the immediate cessation of such work or activity until authorized by the director to proceed.
(R&R 7 §201, 12-1-81)

1.08.110 Notice and order issuance.

Whenever the director has reason to believe that violation of any public health rules and regulations, or any rules and regulations adopted under them, will be most promptly and equitably terminated by any administrative notice and order proceeding, he shall issue a written notice and order directed either to the owner or operator of the source of the violation, the person in possession of the property where the violation originates, or the person otherwise causing or responsible for the violation. The notice and order shall contain:

A. The street address, when available, and a legal description of real property and/or description of personal property sufficient for identification of where the violation occurred or is located;

B. A statement that the director has found the person to be in violation of public health rules and regulations with a brief and concise description of the conditions found to be in violation;

C. A statement of the corrective action required to be taken. If the director has determined that corrective work is required, the order shall require that all required permits be secured and the work physically commence within such time and be completed within such time as the director shall determine is reasonable under the circumstances;

D. A statement specifying the amount of any civil penalty assessed on account of the violation and, if applicable, the conditions on which assessment of such civil penalty is contingent;

E. Statements advising that (1) if any work is not commenced or completed within the time specified, the director will proceed to abate the violation and cause the work to be done and

charge the costs thereof as a lien against the property and as a joint and separate personal obligation of any person in violation; and (2) if any assessed civil penalty is not paid, the director will charge the amount of the penalty as a lien against the property and as a joint and separate personal obligation of any person in violation;

F. A statement advising that the order shall become final unless, no later than ten (10) days after the notice and order are served, any person aggrieved by the order requests in writing an appeal before the hearing examiner.
(R&R 7 §202, 12-1-81)

1.08.120 Service of notice and order.

Service of the notice and order shall be made upon all persons identified in the notice and order either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested. If the address of any such person cannot be reasonably ascertained, then a copy of the notice and order shall be mailed to such person at the address of the location of the violation. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this chapter. Service by certified mail in the manner provided in this section shall be effective on the date of postmark. The notice and order may, but is not required to, be posted on the subject property.
(R&R 7 §203, 12-1-81)

1.08.130 Administrative conference.

An informal administrative conference may be conducted at any time by the director for the purposes of bringing out all the facts and circumstances related to an alleged violation, promoting communications between concerned parties, and providing a forum for efficient resolution of any violation. The director may call a conference in response to a request from any person aggrieved by the director's order or the director may call a conference on his own motion. Attendance at the hearing shall be determined by the director and need not be limited to those named in a notice and order. The director may, but is not required to, involve the enforcement technical review committee. As a result of information developed at the conference, the director may affirm, modify or revoke his order. The administrative conference is optional with the director and is not a prerequisite to utilization of any of the enforcement provisions described in this chapter.
(R&R 7 §204, 12-1-81)

1.08.140 Appeals.

A. Any person aggrieved by an order of the director may request in writing within ten (10) days of the service of the notice and order an appeal hearing before the county hearing examiner. The request shall cite the notice and order appealed from and contain a brief statement of the reasons for seeking the appeal hearing.

B. The appeal hearing shall be conducted on the record and the hearing examiner shall have such rulemaking and other powers necessary for conduct of the hearing as are specified by King County Code Section 20.24.150. Such appeal hearing shall be conducted within a reasonable time after receipt of the request for appeal. Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of the hearing to each appealing party, to the director and to other interested persons who have requested in writing that they be

so notified. The director may submit a report and other evidence indicating the basis for the enforcement order.

C. Each party shall have the following rights, among others:

1. To call and examine witnesses on any matter relevant to the issues of the hearing;
2. To introduce documentary and physical evidence;
3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
4. To impeach any witness regardless of which party first called him to testify;
5. To rebut evidence against him;
6. To represent himself or to be represented by anyone of his choice who is lawfully permitted to do so.

D. Following review of the evidence submitted, the hearing examiner shall make written findings and conclusions, and shall affirm or modify the order previously issued if he finds that a violation has occurred. He shall reverse the order if he finds that no violation occurred. The written decision of the hearing examiner shall be mailed by certified mail, postage prepaid, return receipt requested, to all the parties.

(R&R 7 §205, 12-1-81)

1.08.150 Supplemental notice and order.

The director may at any time add to, rescind in part, or otherwise modify a notice and order by issuing a supplemental notice and order. The supplemental notice and order shall be governed by the same procedures applicable to all notices and orders contained in this chapter. (R&R 7 §207, 12-1-81)

1.08.160 Finality of order.

A. Any order duly issued by the director pursuant to the procedures contained in this chapter shall become final ten (10) days after service of the notice and order unless a written request for hearing is received by the hearing examiner within the ten (10) day period.

B. An order which is subjected to the appeal procedure shall become final twenty (20) days after mailing of the hearing examiner's decision unless within that time period an aggrieved person initiates review by writ of certiorari in King County Superior Court. (R&R 7 §206, 12-1-81)

1.08.170 Enforcement of final order.

A. If, after any order duly issued by the director has become final, the person to whom such order is directed fails, neglects or refuses to obey such order, including refusal to pay a civil penalty assessed under such order, the director may:

1. Cause such person to be prosecuted under this chapter; and/or
2. Institute any appropriate action to collect a civil penalty assessed under this chapter; and/or
3. Abate the health violation using the procedures of this chapter; and/or
4. File in the office of the division of records and elections a certificate describing the property and the violation and stating that the owner has been so notified; and/or
5. Pursue any other appropriate remedy at law or equity under this chapter.

B. Enforcement of any notice and order of the director pursuant to this chapter shall be

stayed during the pendency of any appeal under this chapter, except when the director determines that the violation will cause immediate and irreparable harm and so states in the notice and order issued.

(R&R 7 §208, 12-1-81)

ARTICLE III. PERMIT

1.08.180 Suspension of permits.

A. The director may temporarily suspend any permit issued under any public health rules and regulations for (1) failure of the holder to comply with the requirements of any public health rules and regulations or rules and regulations promulgated under them, (2) failure to comply with any notice and order issued pursuant to this chapter, or (3) the dishonor of any check or draft used by the permit holder to pay any fees required by law or rules and regulations of the board of health.

B. Permit suspension shall be carried out through the notice and order provisions of this chapter, and the suspension shall be effective upon service of the notice and order upon the holder or operator. The holder or operator may appeal such suspension as provided by this chapter.

C. Notwithstanding any other provision of this chapter, whenever the director finds that a violation of any public health rules and regulations or rules and regulations promulgated thereunder, has created or is creating an unsanitary, dangerous or other condition which, in his judgment, constitutes an immediate and irreparable hazard, he may, without service of a written notice and order, suspend and terminate operations under the permit immediately.

(R&R 7 §301, 12-1-81)

1.08.190 Revocation of permits.

A. The director may permanently revoke any permit issued by him for (1) failure of the holder to comply with the requirements of any public health rules and regulations, or rules or regulations promulgated under them, or (2) failure of the holder to comply with any notice and order issued pursuant to this chapter, or (3) interference with the director in the performance of his duties, or (4) discovery by the director that a permit was issued in error or on the basis of incorrect information supplied to him, or (5) the dishonor of any check or draft used by the holder to pay any fees required by law or rules and regulations of the board of health.

B. Such permit revocation shall be carried out through the notice and order provisions of this chapter and the revocation shall be effective upon service of the notice and order upon the holder or operator. The holder or operator may appeal such revocation, as provided by this chapter.

C. A permit may be suspended pending its revocation or a hearing relative to revocation.

(R&R 7 §302, 12-1-81)

ARTICLE IV. RECOVERY OF CIVIL PENALTY AND COST OF ABATEMENT

1.08.200 Status of obligations.

A. King County shall have a lien for any civil penalty imposed or for the cost of any work of abatement done pursuant to this chapter, or both, against the real property on which the civil penalty was imposed or any of the work was performed.

B. The civil penalty and the cost of abatement are also joint and separate personal obligations of any person in violation. The prosecuting attorney on behalf of the county may collect the civil penalty and the abatement work costs by use of all appropriate legal remedies.

C. The notice and order of the director pursuant to this chapter shall give notice to the owner that a lien for the civil penalty or the cost of abatement, or both, may be claimed by the county.

D. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for state and county taxes with which it shall be on a parity.

(R&R 7 §§401--404, 12-1-81)

1.08.210 Claim of lien.

A. The director shall cause a claim for lien to be filed for record in the office of the records and elections division within ninety (90) days from the date the civil penalty accrues, or within ninety (90) days from the date of completion of the work or abatement performed pursuant to this chapter.

B. The claim of lien shall contain the following:

1. The authority for imposing a civil penalty or proceeding to abate the violation, or both;

2. A brief description of the civil penalty imposed or the abatement work done, or both, including the violations charged and the duration thereof, including the time the work is commenced and completed and the name of the persons or organizations performing the work;

3. A description of the property to be charged with the lien;

4. The name of the known owner or reputed owner, and if not known the fact shall be alleged; and

5. The amount, including lawful and reasonable costs, for which the lien is claimed.

C. The director or his/her authorized representative shall sign and verify the claim by oath to the effect that the affiant believes the claim is just.

D. The claim of lien may be amended in case of action brought to foreclose it, by order of the court, insofar as the interest of third parties shall not be detrimentally affected by amendment.

(R&R 7 §405, 12-1-81)

1.08.220 Recording of claims and notices.

The director of the division of records and elections shall record and index the claims and notices described in this article.

(R&R 7 §406, 12-1-81)

1.08.230 Duration of lien.

No lien created by this chapter binds the property subject to the lien for a period longer than three (3) years after the claim has been filed unless an action is commenced in the proper

court within that time to enforce the lien.
(R&R 7 §407, 12-1-81)

1.08.240 Foreclosure.

A. The lien provided for by this chapter may be foreclosed and enforced by a civil action in a court having jurisdiction.

B. All persons who have legally filed claims of liens against the same property prior to commencement of the action shall be joined as parties, either plaintiff or defendant.

C. Dismissal of an action to foreclose a lien at the instance of a plaintiff shall not prejudice another party to the suit who claims a lien.

(R&R 7 §408, 12-1-81)

ARTICLE V. CASH PENALTY AMOUNTS AND FEES

1.08.250 Dishonored checks.

The penalty for payment of a permit with a dishonored check shall be twenty-five dollars (\$25.00).

(R&R 97 §1, 12-14-93: R&R 71 §2, 8-12-91: R&R 7 Ch. 5, 12-1-81)

1.08.260 Late fee.

The penalty for late permit fee payment, delinquent by more than ten (10) days, is one-fourth (1/4) of the applicable permit fee. The penalty for permit fee payment, delinquent by more than thirty (30) days, is one-half (1/2) of the applicable permit fee. The penalty for late payment of any seasonal permit fee is twenty-five dollars (\$25.00).

(R&R 97 §2, 12-14-93: R&R 79 §1, 12-11-91: R&R 7 Ch. 6, 12-1-81)

1.08.270 Permit replacement.

The fee to replace a lost or destroyed permit shall be twenty-five dollars (\$25.00).

(R&R 97 §3, 12-14-93: R&R 7 Ch. 7, 12-1-81)

1.08.280 Permit transfer or name change.

The fee for transferring a permit or for change of name for an existing permit, no other change, shall be twenty-five dollars (\$25.00).

(R&R 97 §4, 12-14-93)

1.08.290 Special services.

The fee for inspections request by permittee or person in charge of regulated activity, if outside regular department working hours, and for furnishing special services or materials, requested by the public, if not ordinarily provided by the department shall be the cost to the department of providing hours and for performing the service or furnishing the materials.

(R&R 97 §5, 12-14-93)

1.08.300 Refunds.

The fee for processing a refund shall be twenty-five dollars (\$25.00).
(R&R 97 §6, 12-14-93)